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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,341	10/17/2003	Robert M. Ransom	WEC-131-A	7081
7590 02/09/2006			EXAMINER	
Marshall G. MacFarlane YOUNG & BASILE, P.C. Suite 624 3001 West Big Beaver Road Troy, MI 48084-3107			GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 02/09/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/687,341	<b>Applicant(s)</b> RANSOM, ROBERT M.	
	<b>Examiner</b> Harry A. Grosso	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,7 and 10-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,7 and 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 5, 2005 has been entered.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Jones (6,019,224). Jones discloses a protective liner that is capable of being used in a storage area of a vehicle, comprising a floor (22, Figure 2 and column 4, lines 57-63), substantially normal walls (16), a sleeve (20) and a resilient frame (21 and column 2, lines 12-15), made from a flexible, substantially impermeable material (column 2, lines 2-7).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Cesare (6,105,842). Jones discloses the protective liner but does not teach that it is the shape and size of a cargo compartment of a motor vehicle. Cesare discloses a protective liner in the shape of a pickup truck bed to allow use of the bed for storing possessions (column 1, line 66 to column 2, line 3). ). Cesare discloses the liner maintains its shape when standing alone but does not disclose how this is done. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a protective liner in the shape of a pickup truck bed as disclosed by Cesare with the protective liner disclosed by Jones to provide a liner that makes efficient use of the space in the pick-up truck bed and has the means for maintaining its shape.

6. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of Behlman (5,215,205). Jones discloses the protective liner as discussed above but does not teach that the liner is removably secured to the storage area. Behlman discloses a protective liner for use in the cargo area of a vehicle and further discloses that the liner is secured in the cargo area by the use of a hook and loop type gripper (43, Figure 1 and column 3, lines 57-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a hook and loop type gripper as disclosed by Behlman with the protective liner disclosed by Jones to allow securing of the liner in position in the cargo area.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones and Behlman as applied to claim 7 above, and further in view of Cesare. Jones and Behlman disclose the liner of claim 7 but do not teach that it is the shape and size of a cargo compartment of a motor vehicle. Cesare discloses the liner maintains its shape when standing alone but does not disclose how this is done. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a protective liner in the shape of a pickup truck bed as disclosed by Cesare with the protective liner disclosed by Jones to provide a liner that makes efficient use of the space in the pick-up truck bed and has the means for maintaining its shape.

8. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones and Behlman as applied to claim 7 above, and further in view of Dearborn, IV (5,366,124) (Dearborn). The protective liner of claim 7 having an uncollapsed and collapsed orientation (Figure 6) is disclosed but Jones and Behlman do not teach use of a container for the collapsed liner. Dearborn discloses a collapsible protective liner with a container for storage and transportation of the liner (50, Figure 8, column 6, lines 32-35) with a drawstring closure and a carrying strap formed by the end of the drawstring. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a container for the liner with a closure and a carrying strap as disclosed by Dearborn with the liner disclosed by Jones and Behlman to provide for easy storage and handling of the collapsed liner.

9. Claims 1, 2, 7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cesare in view of Zheng. (6,360,761)

10. Regarding claims 1 and 2, Cesare discloses a protective liner in the shape of a pickup truck bed comprising a floor (4, Figure 1 and column 2, lines 43-60) and substantially normal walls (48, 50, 52, 54) made from a flexible, substantially impermeable material (column 2, lines 38-39). Cesare discloses the liner maintains its shape when standing alone but does not teach use of a sleeve with a coilable resilient frame.

Zheng discloses a collapsible structure capable of use as a liner with a floor (base) having a coilable resilient frame in a sleeve affixed to the perimeter of the floor to maintain the shape of the structure when standing and allow the structure to be collapsed for storage (Figures 1 and 3, column 3, lines 15-16, lines 21-26 and lines 36-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a coilable resilient frame in a sleeve affixed to the perimeter of the floor as disclosed by Zheng in the liner disclosed by Cesare to provide means for the liner to maintain its shape when standing and to be collapsed for storage

11. Regarding claims 7 and 13, Cesare discloses the liner can be removably secured to the vehicle by use of grommets (20) with rope or bungee cords.

12. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cesare and Zheng, as applied to claim 7 above, and further in view of Dearborn. The protective liner of claim 7 having an uncollapsed and collapsed orientation (Figure 6) is

disclosed except for the use of a container for the collapsed liner. Dearborn discloses a collapsible protective liner with a container for storage and transportation of the liner (50, Figure 8, column 6, lines 32-35) with a drawstring closure and a carrying strap formed by the end of the drawstring. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a container for the liner with a closure and a carrying strap as disclosed by Dearborn with the liner disclosed by Cesare and Zheng to provide for easy storage and handling of the collapsed liner.

13. Claims 10 to 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones, or Cesare and Zheng, in view of Dearborn. Jones, or Cesare and Zheng disclose the protective liner of claim 1 having an uncollapsed and collapsed orientation but do not teach use of a container for the collapsed liner. Dearborn discloses a collapsible protective liner with a container for storage and transportation of the liner (50, Figure 8, column 6, lines 32-35) with a drawstring closure and a carrying strap formed by the end of the drawstring. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a container for the liner with a closure and a carrying strap as disclosed by Dearborn with the liner disclosed by Jones or Cesare and Zheng to provide for easy storage and handling of the collapsed liner.

14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones in view of, Cesare, Dearborn and Lester et al (6,905,162). Jones, Cesare and Dearborn disclose the protective liner comprising a floor, a sleeve and a resilient frame, made

from a flexible substantially impermeable material, having a shape and size substantially the same as the shape and size of a vehicle storage area, removeably attached to a vehicle storage area (Cesare), having an uncollapsed and collapsed orientation and a container with a closure for protecting and transporting the collapsed liner as discussed above. Jones, Cesare and Dearborn do not teach the container has two straps. Lester et al discloses a container for protecting and transporting a protective liner with two carrying straps (Figure 5, column 3, lines 29-32). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a container for protection and transportation of the liner having two carrying straps as disclosed by Lester et al with the liner disclosed by Jones, Cesare and Dearborn to reduce the load and, thus, the stress on each handle and provide for easier and more comfortable handling of the collapsed liner.

15. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cesare in view of Zheng, Dearborn and Lester et al. Cesare, Zheng and Dearborn disclose the protective liner comprising a floor, a sleeve and a resilient frame, made from a flexible substantially impermeable material, having a shape and size substantially the same as the shape and size of a vehicle storage area, removeably attached to a vehicle storage area, having an uncollapsed and collapsed orientation and a container with a closure for protecting and transporting the collapsed liner as discussed above. Cesare, Zheng and Dearborn do not teach the container has two straps. Lester et al discloses a container for protecting and transporting a protective liner with two carrying straps (Figure 5, column 3, lines 29-32). It would have been obvious to one of ordinary skill in the art at



the time the invention was made to have incorporated the use of a container for protection and transportation of the liner having two carrying straps as disclosed by Lester et al with the liner disclosed by Cesare, Zheng and Dearborn to reduce the load and, thus, the stress on each handle and provide for easier and more comfortable handling of the collapsed liner.

### ***Response to Arguments***

16. Applicant's arguments filed December 5, 2005 have been fully considered but they are not persuasive. Applicant argues that Jones does not have a wall that is substantially normal to the plane of the floor. In response, Webster's Collegiate Dictionary defines substantially as "being largely but not wholly that which is specified." The walls of Jones are substantially normal to the plane of the floor in that they are more close to normal than to diagonal.

17. In response to applicant's argument that Jones is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Jones is a protective liner and is capable of being used in a vehicle storage area, which is intended use.

18. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, combination of Cesare with Jones would be obvious to one of ordinary skill in the art to make the most efficient use of the space in the vehicle storage area.

19. Applicant argues that there is no motivation to combine Jones with Behlman since Jones is nonanalogous art. This has been addressed above. Behlman discloses a protective liner for use in a vehicle storage area that utilizes hook and loop fasteners to hold the liner in place. It certainly would be obvious to one of ordinary skill in the art to incorporate the fastening concept from one storage area liner in another liner to address the need for securement.

20. Applicant's arguments with respect to Samsel and Larga et al have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nathan Newhouse  
Supervisory Patent Examiner  
Art Unit 3727

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